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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/660,453

09/11/2003

Lutz Biedermann

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4926

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EXAMINER

WILLSE, DAVID H

ART UNIT

PAPER NUMBER

3738

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/660,453

Applicant(s)

BIEDERMANN ET AL.

Examiner

Dave Willse

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3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 6-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 12-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9-2-04; 3-24-06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Applicant's election of Species II in the reply filed on November 27, 2006, is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

In the Information Disclosure Statements of September 2, 2004, and March 24, 2006, certain references were not considered because a concise explanation of the relevance (37 C.F.R. § 1.98(a)(3)) and/or a complete copy (37 C.F.R. § 1.98(a)(2)) was not presented. In the file copy of DE 35 29 761 C2, every other page is missing and there is no English abstract. There are likewise no English abstracts (or concise explanations) for EP 0 268 115 B1 or DD 239 523 B3. The duplicate listings for DE 43 23 034 C1 and WO 01/68003 A1 have been "lined out".

The disclosure is objected to because of the following informalities: On page 5, last line, "74" should apparently be replaced by --81-- (Figure 4; paragraph **0025**). On page 6, paragraph **0028**, last line, "silicone" is misspelled. On page 9, fifth line of paragraph **0039**, "silicone" is misspelled (at least in the first occurrence). On page 10, paragraph **0043**, the first sentence lacks proper syntax. Appropriate correction is required.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Claims 1-5 and 12-15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Reljica-Kostic, DE 41 09 941 A1: English abstract; drawings. Figures 3-6 illustrate a tubular section **18** or **18'**, an integral flange-like base plate **52**, a flange-like top plate integral with component **16**, and an elastic member **14**. The optional protective cover **70** can alternatively be interpreted as one of the top and bottom plates so that the embodiment depicted in Figures 1, 2,

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and 9 is likewise applicable to the instant claims. Regarding claim 5, the screws **26** are viewed as teeth.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US 5,375,823: Figure 4.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Willse whose telephone number is 571-272-4762 and who is generally available Monday through Thursday and often on Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott, can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Dave Willse
Primary Examiner
Art Unit 3738